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ABSTRACT

An investigative report examines the Los Angeles Unified School District's (LAUSD's) attempt to obtain emergency funding, following the Los Angeles earthquake, for its abandoned Business Services Center (BSC). It examines the LAUSD's declaration of emergency and the pursuit of emergency funds, the district's search for replacement office space, its evacuation and move into the IBM Towers, and the retention of outside consultants for the pursuit of additional emergency funds. The report reveals that the Federal Emergency Management Fund discovered no identifiable earthquake damage and the denial of the district participating in the Hazard Mitigation Grant Program and its subsequent acceptance of the Grant Acceleration Program. (GR)

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LAUSD's Business Services Center

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An Investigative Report

Joint Legislative Audit Committee
Chairman Scott Wildman

PREPARED BY MARIA ARMOUDIAN, COMMITTEE CONSULTANT

Special Thanks to Frank Heron and Will Heron

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Introduction

Beginning in the mid-1980s, the Los Angeles Unified School District (LAUSD or District) pursued a series of joint venture public/private land development projects. These plans – to jointly develop land for commercial and/or public use or to lease out District land to developers for private, commercial projects – were intended to secure additional funds for District use.

Throughout the late 1980s and the 1990s, LAUSD staff and consultants evaluated District-owned properties with a potential to generate revenue through joint development projects and explored or engaged in at least six of these joint venture projects. One was completed (see Joint Legislative Audit Committee [JLAC] report *Partnerships Between School Districts and Private Developers*).

Among the properties considered for commercial development by the District was the Business Services Center (BSC) site, a 17.5-acre parcel of land on San Pedro Street in Los Angeles, which housed District administrative functions.

The first attempt to develop the BSC site by the District was apparently in 1991. At that time, District staff sent requests for proposals (RFP) to interested developers for two related projects. A May 1991 proposal called for the "*private*" development of the District-owned 17.5-acre BSC property. A related

June 1991 RFP (prepared by the District in collaboration with the Southern Pacific Transportation Company) called for the development of a 47-acre site referred to as the "*Cornfield,*" and advised potential developers that "*...this project may be associated with other RFQ-RFP items under consideration by the District [the BSC]...*" The RFP proposed that the "*Cornfield*" project consist of one-third high school, one-third District administrative offices/warehouse, and one-third private development. The administrative functions of the BSC would then be relocated to the "Cornfield," thereby freeing up the BSC property for a private development.[1]

The 1991 development plans did not materialize. However, in January 1994, the Northridge Earthquake provided District staff with another opportunity to seek commercial development of the BSC property. The specifics of this plan apparently were developed over a 12-month period after the earthquake.

A December 12, 1994 memo from Dominic Shambra, former LAUSD Director of the Office of Planning and Development (OPD) to LAUSD General Counsel Richard Mason and then Superintendent Sidney Thompson, encapsulates the staff's intentions:

[1] September 11, 1998 letter from Rich Mason to Maria Armoudian (JLAC Consultant)

"...It has become apparent that the identified seismic problems could provide the district with an income producing opportunity. That opportunity could become reality if we create a long term plan to leverage certain district property assets while recognizing the short term needs to mitigate the seismic problems. . . The long term plan would include a comprehensive consolidation of administrative facilities and the development of available properties for revenue producing purposes..."

Rather than approaching the Board of Education with the simple goal of relocating and/or refurbishing current administrative offices, Shambra instead believed the earthquake offered the District an opportunity to create:

"...long term local income ... that will ultimately improve facilities for children that utilizes property assets effectively and efficiently..."

The memo continues:

"...To approach this problem with a simple goal to relocate and/or refurbish administrative offices will, not only be self defeating and ultimately viewed as unnecessary, but also an 'extravagant' use of

District funds at a time when such funds are critically needed for new construction and improvement of schools..."[2]

Dominic Shambra suggested that the District retain a team of consultants and attorneys to further develop the proposal. That team included consultant Wayne Wedin, attorneys David Cartwright and Lisa Gooden (O'Melveny & Myers), architects Ernesto Vasquez (Maclaren, Vasquez International), Chris Martin (A.C. Martin and Associates Architects), and Cushman Realty Corporation's Patrick Nally and Lynne Williams. The preliminary cost for the team to produce the plan was estimated to be between $200,000 and $300,000 in *"... out of pocket costs..."* While Shambra believed these costs could be *"... partially funded by redevelopment monies currently available..."*, he added, *"...There may also be a need to augment these funds from other district sources..."*

Critical to the success of this *"...income producing opportunity..."* was the abandonment of the BSC. That move, however, was apparently not justified by earthquake-related damage alone. In that same memo, Shambra wrote *"...It does not appear that the* [BSC] *facilities need to be abandoned immediately because of imminent danger..."*[3] However, he and other LAUSD staff, including Business Manager David Koch, General Counsel Richard Mason and

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Chief Financial Officer Henry Jones, proposed that the Board of Education declare an emergency.[4] Such a declaration would enable the District to avoid competitive bidding, expedite relocation, and move quickly on the proposed development of a vacated BSC site.[5]

By June 1995, the District had completed its move from the BSC.

The January 1995 issue of LAUSD's own internal newsletter, *Spotlight*, reflected the staff relocation/development plan and further reported that the BSC sustained no significant damage from the earthquake.

> *"...While the buildings were not damaged by last year's temblor, another major earthquake could result in major damage ... The relocation of employees ... actually the first phase of an overall plan to consolidate ... will set into motion ... actions that could create new sources or money for the district ... Possible sale or leasing of these facilities ... could provide a source of funds ..."*[6]

On October 27, 1995, the OPD declared its intention to pursue the *"...reuse, disposition or development of the recently vacated Business Services*

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[3] December 12, 1994 memo from Shambra to Mason and Thompson
[4] January 23, 1995 Board of Education Report Number 12
[5] January 23, 1995 Board of Education Report and Meeting Minutes
[6] January 25, 1995 *Spotlight*, LAUSD Newsletter

Center..."[7] an appropriate *"... next phase ... now that the ... relocation has been completed ..."*[8]

On December 1, 1995, District staff issued a *"Request for Qualifications-Proposals"* for a joint venture project to commercially develop the property. The RFQ/RFP stated:

> *"...The District has a desire for private development to occur on the site. The overall objective of the project is to guarantee funds to construct facilities for the District . . . The District will only accept proposals for a ground lease of the property . . . not . . . to purchase the property..."*[9]

While there is some debate as to whether or not the Northridge Earthquake significantly damaged the existing Business Services Center buildings, the subsequent declaration of emergency by the LAUSD School Board, more than 12 months after the earthquake, raises numerous questions regarding the consistency of the District actions with regard to the intent of the law governing emergency declarations in school districts, as codified in Public Contracts Code, Section 22050, which reads:

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[7] October 27, 1995 memo from Shambra to School Board members Julie Korenstein, Victoria Castro, David Tokofsky
[8] ibid
[9] December 1, 1995 RFQ/RFP issued by LAUSD

In the case of an emergency, a public agency . . . may repair or replace a public facility, take any directly related and immediate action required by that emergency . . . without giving notice for bids to let contracts. . . . Before a governing body takes any action pursuant to paragraph one (1), it shall make a finding, based on substantial evidence . . . that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency. . . . a person with authority shall report . . at it next meeting . . the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency. . . . The governing body shall review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the action is terminated to determine . . . that there is a need to continue the action. . . If a person with authority . . orders . . . any action . . . the governing body shall initially review the emergency action not later than seven days after the action . . . and at least at every regularly scheduled meeting thereafter until the action is terminated . . . to determine . . . that there is a need to continue the action. . . . the governing body shall terminate the action at the earliest possible date . . so that the remainder of the emergency action may be completed by giving notice for bids to let contracts."

Preliminary Findings

1) The LAUSD declared an emergency in relation to the BSC over one year after the Northridge Earthquake.

2) In at least one inspection, FEMA/OES found no evidence of earthquake damage and even declined approving funds for an architectural and engineering study.

3) The District admitted on more than one occasion, that the Northridge Earthquake resulted in no serious damage and/or no damage at all.

4) On December 5, 1995, FEMA inspectors reported "no identifiable earthquake damage" and noted the following two points.

- Despite evacuating the building based on safety concerns, the district subsequently rented part of the BSC to a private company.
- The District did not evacuate district staff from the buildings until 16 months after the earthquake.

1) Funds from both federal and state sources have been approved and/or allocated in amounts exceeding $10 million for the abandoned BSC building, including:

- $5.56 million in Hazard Mitigation Grant Program funds
- $1.2 million in Public Assistance Grant Acceleration Program (FEMA/OES) funds
- $6 million (approximate figure based on the lease rate for three years) in U.S. Department of Education funds to pay for three years of leased Administrative office space.
- $135,000 (approximate figure based on DSRs) in State matching funds from the State Allocation Board's Northridge Earthquake Program

1) According to the District's own Board Reports, the rationale for the decision by the LAUSD to declare an emergency included:

- Expedite evacuation
- Avoid competitive bidding on Administrative office leases

- Receive emergency funding from State and Federal agencies
- Free the location for private development plans.
- Help create a "long-term" funding source for district use.

1) The matching bond funds from the SAB's Northridge Earthquake Program were intended to be used for schools, not administrative buildings.

2) SAB staff relied solely on the OES staff to determine the allocation amounts to be granted to school districts. At the time of allocation, the SAB did not request, and the OES did not provide an itemization or "breakdown" of grant dollars or copies of DSRs to SAB staff.

3) The District relocated evacuated BSC staff to the IBM Towers building, which, according to District documents will cost $38.7 million for its seven-year lease.

Recommendation and Questions

It is recommended that the Bureau of State Audits perform an extensive audit of the activities of District staff and the decisions made by the LAUSD Board of Education surrounding the Business Services Center and the disbursement of funds by the SAB, FEMA, and/or OES related to this project in order to determine the following:

- Did the LAUSD's "development program" satisfy its intended purpose and did the District's desire to secure a long-term revenue source appropriately influence decisions made with regard to the Business Services Center?
- Were State and Federal funds for the BSC awarded appropriately?
- Were State and Federal funds awarded used appropriately by the LAUSD?
- Was the LAUSD's declaration of emergency legitimate and consistent with the intent of existing State law?
- Did OES, FEMA, and or the SAB engage in adequate research to determine LAUSD funding eligibility?
- What were the procedures used by the SAB to allocate Northridge earthquake emergency funds and did those procedures properly assure that those funds were expended appropriately?
- Did the LAUSD follow the appropriate procedures in acquiring the IBM Towers office space for displaced BSC administrative personnel, and did the District select the most cost-effective proposal for relocation and housing of displaced personnel?

The Declaration of Emergency and the Pursuit of Emergency Funds

FEMA Inspection Finds "Minor Cracking"

The District initially approached the Federal Emergency Management Authority (FEMA) and/or OES and the SAB shortly after the Northridge earthquake for emergency funds.

FEMA and the State's Office of Emergency Services (OES) performed its initial inspection of the BSC in April 1994, reporting:

> *"...minor plaster, drywall cracks and some stucco cracks."* The report noted that FEMA/OES could *"not find any damage outside of some minor stucco cracking at the upper corners . . . damage consisted of minor plaster and drywall cracks."* Further, much of the building had *"no exterior damage"* at all and only *"minor interior cracking..."*[10]

It appears that FEMA allocated $12,033 to the district to repair the cracks, paint affected walls, repair floor tile and replace missing ceiling tile. Federal funds supplied 90 percent, amounting to $10,830, while State funds made up the

[10] April 18, 1994 DSR #02308

balance. In spite of the FEMA/OES report to the contrary, District staff maintained that the damage to the BSC was "serious."[11]

[11] ibid

In October 1994, several months after FEMA assessed the Business Services Center as having "minor" and superficial earthquake damage, and ten months after the earthquake, the District received a preliminary structural evaluation from a consulting firm, Aleks Istanbulla John Kaliski Architecture and City Design (AIJK).

In its October 10 report, AIJK wrote, *"...This campus suffered relatively minor visible damage..."*

However, given current building standards and the age of the buildings (the BSC was originally built in the 1920s), AIJK noted, the Main Building (Building One) had *"significant deficiencies"* in its structural system because of an *"unsymmetrical seismic resistance system."* The consultant recommended further structural investigation and estimated the cost to bring the buildings to current code to be $29.4 million.[12]

The LAUSD subsequently retained a second firm, Johnson & Nielsen Associates (JNA) to perform the structural evaluation recommended by AIJK. In their November 1994 report, JNA also noted *"minor"* damage, mainly *"...typical cracking of the drywall in non-structural partitions..."* in one building.

[12] AIJK Preliminary evaluation, October 1994

Another building appeared to have even less damage with only *"non-structural plaster damage."*

However, it was noted that the building wasn't up to current building codes and was therefore considered seismically vulnerable in the case of a Northridge-sized earthquake in its immediate vicinity. The firm recommended both upgrading and repair, with cumulative estimates for both totaling $4.39 million and which would not require the evacuation of the BSC buildings even during construction. The scope of the recommendations included a considerable amount of work that was unrelated to earthquake damage.[13]

The Declaration of Emergency

Despite the conclusions reached in the above referenced engineering reports noting only minor earthquake damage, District staff, including Director of the Office of Planning and Development Dominic Shambra, Business Manager David Koch, General Counsel Richard Mason, Chief Financial Officer Henry Jones, and Superintendent Sidney Thompson, recommended that the Board of Education immediately declare an emergency. On January 23, 1995, according to Board Report No. 12, this would enable the District to avoid competitive

[13] Johnson & Nielson Associates Evaluation on the BSC

bidding, expedite relocation and use funds from the district's Reserve for Economic Uncertainties for the project.

While Board Report No. 12 offered the staff's rationale for the emergency declaration, it also explained the need to engage in development projects that would help resolve

> *"...this serious and complicated problem and at the same time, create a strategy that will stand the test of financial and political reasonableness before ... improving and relocating administrative facilities..."*[14]

The Report requested Board approval for a plan of action to evacuate the BSC. District officials would secure an alternative location, relocate staff and develop a plan to *"...create a new major source of long-term funding to provide for the District's capital needs..."* The Report continues:

> *"...The new funding source will be generated by the following means: Developing, liquidating or joint venturing District administrative property assets..."*

School Board member Barbara Boudreaux moved that the Board adopt the Report, seconded by Board member Leticia Quezada. The motion passed.[15]

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[14] January 23, 1995 LAUSD Board Report, prepared by staff
[15] Minutes from the January 23, 1995 LAUSD meeting of the Board of Education

The District's Search for Office Space

During the 1994 Christmas holidays, the LAUSD retained Cushman Realty to commence a search for relocation space, according to LAUSD's outside counsel David Cartwright.[16]

On January 17, 1995, one week before the Board declared an emergency at the BSC, District staff had already prepared "*...tentative recommendations for organizational placement at 1100 Wilshire...,*" a building owned by the Format Corporation. A Letter of Intent, proposing the lease of 261,600 square feet of space at 1100 Wilshire was sent to Format Corporation's representative, Robert Caudill. Base rent began at $15.50 per square foot and reached $19.50 by year eight. In years nine and 10, the lease rate increased to $20.50 and $21.50 respectively.

On January 19, 1995, District staff followed the Letter of Intent with an urgent request that Caudill return an executed Letter of Intent in time for the January 23rd Board meeting. Caudill was unable to comply.

On January 23, 1995, the LAUSD Board of Education adopted Report No. 12, officially declaring an emergency at the BSC.

On January 25, 1995, the District solicited bids from building owners for at least 250,000 square feet of office space. Qualified bids were to be returned to the District by 1 PM on January 31, 1995.

Four days after the said solicitation, on January 29, 1995, District staff modified a Letter of Intent that set out the terms of a lease between the District and McGuire/Thomas Partners for 268,000 square feet of space in the South Tower of the Wells Fargo Center on Grand Avenue (The IBM Tower). At the same time, bids were being received in response to the District's solicitation.

On January 31, 1995, Dominic Shambra and outside counsel David Cartwright signed a Letter of Intent to lease 270,739 square feet of space at the IBM Tower. The terms were essentially the same as the draft prepared two days earlier.

In their search, LAUSD officials said that they evaluated 37 buildings according to a criteria matrix.[17] Of the 37 buildings, three became finalists, including the previously rejected 1100 Wilshire Boulevard building, the IBM Tower then being negotiated, and the AT&T Center.[18]

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[16] JLAC in-office interview with Cartwright
[17] Evaluation Matrix supplied by LAUSD
[18] February 3, 1995 memo from Rich Mason to Sidney Thompson

In a comparison of the three finalists sent to Superintendent Sidney Thompson by Richard Mason, LAUSD Chief Counsel, projected lease costs were as follows:

- IBM Tower — First four months free; 2.75 years at $8.56/RSF, increasing to $15.37/RSF for one year, then rising to $29.47 for the final three years. (LAUSD determined Average Total Cost per Square foot per Year: $19.79)
- AT&T Center — One year at $13/RSF, increased to $14 in year two, $15 in years three and four, $16 in years five and six and topped at $17 in year seven. (LAUSD determined Average Total Cost per Square foot per Year: $23.91)
- 1100 Wilshire — $15.70/RSF over 10 years. (LAUSD determined Average Total Cost per Square foot per Year: $21.62)[19]

The first choice, according to the District, was the 1100 Wilshire Building. However, according to District's outside counsel, David Cartwright, the building owner *"reneged"* on the deal made with the LAUSD and had a *"reputation of erratic behavior"* and an *"overreaching negotiating style."*[20]

The other finalist, the AT&T Center, failed to provide adequate contiguous space, according to an article in the *Downtown News*, a local Los Angeles newspaper.

Of the non-finalists, prices were considerably lower. The RTD Headquarters Building at 425 South Main Street, was available for 90 cents

[19] February 3, 1995 memo from Rich Mason to Sidney Thompson
[20] November 7, 1995 memorandum from Cartwright to Shambra

($10.8 annual) per RSF for three years and gradually increased to $1.30 ($15.60 annual) per RSF in year 10.

Two other non-finalists – 433 South Spring and 800 South Hope – were considered *"seismically suspect"* and couldn't be *"realistic alternatives for an emergency seismic-related move where cost was a factor,"* according to Cartwright.[21]

Shortly after the execution of the lease agreement, a managing partner of commercial realtor Charles Dunn Company, Richard Dunn, said he was *"devastated"* at the District's choice of office space. In an *"apples to apples"* comparison, Dunn said the building located at 3699 Wilshire would have cost $10 million less than the 355 South Grand IBM Tower over a seven-year period.[22]

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[21] ibid
[22] February 13, 1995 letter from Richard Dunn to Robert Niccum

Evacuation and Move into IBM Towers

On February 6, 1995, the LAUSD executed a letter of agreement with Maguire/Thomas Partners-South Tower (IBM Tower) to lease part of a *"first-class 45-story office tower"* at 355 South Grand.[23] The subsequent lease was executed the following week on February 13.

The District agreed to rent approximately 270,739 square feet on 12 floors, plus 9,672 square feet of storage, for seven years and two weeks. Rental payments began at $8.50 per rentable square foot (RSF) for the first three years (1995-1997), then increased to $15.37 per RSF for 1998 and are now at $29.47 per RSF until the lease expires in 2002. The total seven-year cost to lease offices in the IBM Tower will be $38.7 million, according to LAUSD documents.[24]

According to a February 12, 1997 letter from LAUSD Chief Administrative Officer David Koch to School Board member David Tokofsky, the LAUSD's

> *"...Margaret Scholl, Director of Earthquake Recovery, was successful in obtaining a commitment from the US Department of Education to pay for the first three years of our lease costs and reimburse us for any tenant improvement costs which were not fully paid by the landlord.."*[25]

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[23] Letter Agreement dated February 6, 1995 between LAUSD and Maguire/Thomas Partners
[24] ibid
[25] February 12, 1997 letter from David Koch to David Tokofsky

In a February 27, 1995 letter from the District's Facilities Asset Management Division Branch Directors to then Deputy Superintendent Dr. Ruben Zacarias, four Directors expressed their concern about the proposed relocation of some branches in the Facilities Division.

Of particular concern was the prospect of certain branches being left behind in the BSC building. In addition to arguing for the need to keep interdependent branches together, the Branch Directors expressed their concern that by using the

> *"...IBM Tower . . . to house employees currently in structurally safe facilities rather than those in unsafe facilities at the BSC, it harms the credibility of District staff and the Board given the original purpose for the move..."*

By June 1995, District staff had moved from the BSC (and other sites) into the IBM Towers. In October, Project Management Los Angeles updated the District on relocation costs associated with the move. With a budget of $7,446,159, the total actual cost was anticipated to be $8,335,066.

The Retention of Outside Consultants for the Pursuit of Additional Emergency Funds

"...While it was clear ... that complete replacement of these facilities never would be eligible for funding, I still believe there is a possibility of obtaining some funding for retrofitting or relocation costs, (Note: This possibility could be endangered by public discussion, at this time, of the District intent to demolish the BSC or trade/develop the site for some other purpose.)..." [26]

On March 16, 1995, the District retained former California Department of Education employee, Dr. Betty Hanson, to pursue additional funds from OES/FEMA. Shambra intended to use Hanson's expertise,

"...coupled with our own negotiation activities with state officials to realize additional funding not available through the regular application process [in] securing additional funds for use in off-setting IBM lease costs and long term development projects..."

As the District already had staff assigned to the Earthquake Recovery Unit, Hanson's retention was regarded as duplicative by staff outside of Shambra's Planning and Development office. Additionally, Earthquake

[26] November 30,1995 Memo from Koch to former LAUSD Superintendent Thompson

Recovery Unit Director, Margaret Scholl, considered the pursuit of FEMA funding for the BSC a last priority.[27]

Eventually, due to what appeared to be an on-going conflict regarding emergency funding priorities, Hanson requested to be transferred from the Earthquake Recovery Unit to perform unrelated duties on the Belmont Learning Complex project. By this time, November 6, 1995, Hanson had charged the District nearly $20,000 for her efforts but was unable to be

> *"...successful in performing the stated duties . . due to the lack of cooperation on the part of the Earthquake Recovery Unit ..."*[28]

According to a November 8, 1995 memo to then Business Manager David Koch, from OPD Director Dominic Shambra, Dr. Hanson had originally been hired to *"...realize additional funding not available through the regular application process...,"* Unfortunately, she was *"...primarily utilized . . . to complete the filing of applications..."* Concluding that *"...our original strategy will not be pursued..."* Shambra insisted that, though hired and funded by the Planning and Development Office, Dr. Hanson's $15,376 services fee should be

[27] August 28, 1995 letter from Betty Hanson to Margaret Scholl
[28] November 6, 1995 letter from Betty Hanson to Dominic Shambra

paid for out of Earthquake Recovery Unit funds rather than the *"...limited funds secured by our office for planning and development..."*

Shambra's memo concludes with an apparent change to the District's plan of action as defined in Board Report No. 12:

> *"...The Office of Planning and Development will continue to work cooperatively with you, however, we will not actively pursue or be involved in the activities associated with the Earthquake Recovery Program as originally envisioned and will not factor funding for the replacement of BSC and/or 17th Street in our plans..."*

In explaining the situation to Superintendent Thompson a few weeks later (November 30, 1995), Koch reminded Thompson that the concern over a possible duplication of activities performed by the Earthquake Recovery Unit originally led to that unit's decision not to hire Dr. Hanson. Shambra had then decided to contract with Dr. Hanson *"...using funds available from his office budget...,"* and made her *"...services . . . available to the Earthquake Recovery Office at no cost to them..."*

LAUSD's Return to FEMA/OES

The District again approached FEMA for additional funds in May 1995.[29]

Upon arrival of the FEMA and OES inspectors, the LAUSD *"...pointed out the damages which were of their major concern, backed by a preliminary structural analysis report..."* FEMA and OES inspectors, however, noted that *"...it was difficult for the inspection team to recognize these as structural damages in lack of technical details..."*[30]

They recommended a field team be assigned to write a Damage Survey Report (DSR).

FEMA Discovers No Identifiable Earthquake Damage

On November 29 and December 5, 1995, a team of inspectors from FEMA and OES returned to again inspect the Business Services Center but determined that the District was *"...ineligible..."* for a structural evaluation because there was *"...no identifiable earthquake related damage..."*

[29] OES/LAUSD BSC Chronology
[30] November 7, 1995 FEMA Reviewer Comments

In fact, the inspection team, which consisted of FEMA and OES inspectors and engineers and an engineer from a private firm, concluded that even the hairline cracks previously observed and shrinkage cracks were *"...typical shrinkage..."* and *"...not Northridge earthquake related..."*

Further, the team found no *"displacement"* on some of the beams purported to have been displaced and *"no structural damage."*[31]

The inspection team seemed particularly perplexed by two facts:

1) *The District waited 16 months after the earthquake to evacuate the building, claiming that the reason for evacuation was that the building was not safe.*
2) *While evacuating due to alleged safety concerns, the District leased a portion of the building to a private company. That company employed nine people and had approximately 200 people walking into the building for business. The business that rented the office space displayed a large sign, which read, "Vacations on Us!" A photo of the sign and rented space was provided in FEMA's DSRs.*

Inspectors further recommended *"no hazard mitigation."*

In January 1996, the LAUSD again approached FEMA and requested funding for an architectural and engineering evaluation of the building, as well as for

[31] November 29, 1995 DSR Narrative

additional repairs, according to documents from the OES.[32] In its request letter, the District indicated *that "a portion of the building was subject to collapse"* and referenced the JNA structural evaluation.[33] OES noted that neither of the LAUSD-funded structural evaluations found the building unsafe for current occupancy.[34]

At a March 14, 1996 meeting with OES and FEMA, District staff asserted that the BSC had to be evacuated because of Division of State Architect (DSA) regulations for school buildings (the Field Act). However, OES/FEMA confirmed that the BSC was, in fact, an administrative office and not a school, and as such, was not subject to these DSA guidelines. Consequently, FEMA determined the BSC was not eligible for relocation assistance.[35]

FEMA and OES inspectors then revisited the site on May 8, 1996 and attached the District's own preliminary structural evaluation to the Damage Survey Report. The inspection team "overturned" the previous DSR and allocated $72,592 for a structural evaluation.[36] According to OES, the reconsideration and subsequent allocation was based on an additional site visit.

[32] OES/LAUSD BSC Chronology
[33] LAUSD's BSC chronology provided by OES
[34] ibid
[35] ibid
[36] ibid

however no findings from that visit are included in the DSR. DSR #76278 includes only quotes from the District's earlier Johnson/Neilson report.[37]

In June, the District also applied for $5 million in section 406 Hazard Mitigation funds to strengthen existing shear walls, columns and steel braces and add new shear walls.[38] In its applications, the LAUSD requested that the OES and FEMA consider the BSC as three buildings to prevent *a "...future controversy from impeding progress. . . . This determination may significantly impact the amount of eligibility under section 406..."*[39]

On September 16, 1996, FEMA and OES re-inspected the facilities and in July 1997, allocated $743,527 (DSR #77514) for the following repairs:

> *"...Repair by epoxy injection in cracking of concrete columns, beams, soffits and ceiling. Patch and paint exterior soffits and columns and walls. Patch and paint wall plaster, interior walls, remove and replace flooring, repair roofing and asphalt concrete pavement..."*[40]

DSR #77514 (a supplement to the original District request in DSR #02308) had originally allocated $1.09 million to the LAUSD's BSC repairs, but was

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[37] OES/LAUSD's BSC Chronology
[38] OES/LAUSD's BSC chronology
[39] June 14, 1996 letter from Margaret Scholl to Gilbert Najera
[40] September 16, 1996 Damage Survey Report #77514 provided by OES

reduced that to $743,527. In their evaluation of the District's requests, FEMA noted the following:

1) The District used California State Building Code, part 1, Title 24 of the Field Act guidelines as the basis for addressing damage repair and code upgrade; however, the building was never approved under such codes by the Division of the State Architect (DSA).
2) The Business Services Center was only eligible to be restored to pre-disaster condition, which was estimated to cost $1.09 million. Replacement cost of the building was estimated at $20 million.
3) The structural evaluation contracted by the district made assumptions that were "not properly implemented" with regards to the "loss of lateral capacity."
4) The District's structural evaluation report included several repairs, such as plumbing, electrical and architectural, which, since not damaged by the earthquake, were not eligible.

The OES did not concur with FEMA's position on DSR #77514. It now raised questions of

> *"...life safety issues. The age of the building shows signs of deterioration in the main portions of the concrete structure. Cracks . . . show an off-set in the surface plain . . . indicating the structural walls have obviously shifted enough to create a serious structural problem..."*[41]

[41] Statement of OES Position on DSR #77514

In June 1997 FEMA declared the District ineligible for a Section 406 HMG because of *"an inadequate cost/benefit ratio."*

In February 1997, Margaret Scholl declared the LAUSD's non-concurrence with FEMA's decision on the 406 HMPG and requested the data FEMA used to decline 406 funding. Scholl asked for

> *"...any and all FEMA guidelines, memos, policy statements or handbooks with respect to cost-benefit analysis, and/or the appropriateness of using default values versus specific building data..."*

Further, she requested that the DSR be *"...placed on hold until we receive the information we requested and have a reasonable period of time to evaluate it and respond..."*[42]

[42] February 5, 1997 letter from Margaret Scholl to Gilbert Najera

Hazard Mitigation Grant Program (HMGP)

In addition to applying through the Public Assistance Program, in August 1996, the District also applied under Section 404 of the Stafford Disaster Relief and Emergency Assistance Act, requesting $18.5 million to retrofit the BSC.[43] The HMGP is a separate program from the Public Assistance Program .

The following month, the District requested that the funds be allocated toward replacing the BSC, *"assuming that an additional $10.7 million will be forthcoming under the repairs program."*[44]

On August 14, 1997, after re-examining BSC information, FEMA denied the District's Section 404 HMGP application for the following reasons:

- The proposal was not cost effective.
- LAUSD failed to provide sufficient information and details on alternatives.
- LAUSD failed to justify why a building replacement with costs of *"over $29 million"* was the *"best use"* of limited federal grants.

[43] August 15, 1996 letter from Margaret Scholl to Gilbert Najera
[44] September 12, 1996 letter from Margaret Scholl to Junius Pearson (OES)

On October 17, 1997, District staff sent a revised HMGP application and provided *"detailed information regarding a project alternative to replacement"* of the BSC, which she derived from the AIJK and JNA structural reports.[45]

On April 17, 1998, FEMA granted a conditional approval in the amount of $5.56 million to structurally retrofit the BSC main building.[46] The LAUSD then withdrew its appeal of its Section 406 Public Assistance Program (PAP) DSR.[47]

The Board of Education approved the acceptance of the FEMA funds at its July 14, 1998 meeting.

On July 17, 1998, the District requested an *"improved project"* status, whereby instead of retrofitting the BSC building, it could use the HMGP funds to buy a new building. District officials justified the request based on cost-effectiveness:

> *"... it is a more effective use of taxpayer monies to buy a building . . . rather than retrofit and modernize facilities that are considerably more than 50 years old..."*[48]

On March 26, 1999, FEMA set out the following criteria prior to granting full approval:

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[45] October 17, 1997 letter from Margaret Scholl to Cheryl Tateishi (OES)
[46] OES's LAUSD BSC chronology
[47] April 16, 1998 letter from Margaret Scholl to Gilbert Najera
[48] July 17, 1998 letter from Scholl to Andrew Petrow (OES)

- LAUSD must submit a detailed scope of work and a line-item budget for the FEMA funds.
- The existing building must either be demolished or upgraded. A reasonable amount of grant money may be used for demolition and the remaining funds should be used for the replacement building.
- If the existing building is to be upgraded, it must meet current seismic standards.
- The LAUSD must demonstrate that the replacement facility complies with current building codes and meets current seismic safety standards.
- The LAUSD must secure National Environmental Policy Act clearances for the new building.
- The grant funds cannot be used to pay for any temporary facility or relocation costs.
- The LAUSD must use the funds within three years of the conditional approval.[49]

Considering the above, it is arguable that the District may have never intended to repair the buildings in Business Services Center complex.

[49] March 26, 1999 letter from Christina Lopez to Cheryl Tateishi

Grant Acceleration Program Settlement on PAP

On September 1, 1998, FEMA offered the LAUSD the opportunity to join the Public Assistance Grant Acceleration Program (GAP), which would *"...establish final financial settlement offers..."* for the BSC.

The District accepted the GAP settlement offer in October 1998 in the amount of $1.2 million but requested that the GAP funds be granted as an *"...improved project – the purchase of a replacement building that will be larger than the current BSC . . .It is less costly to buy an existing building than to construct a new one..."*[50]

The next week, on October 14, 1998, the OES approved the District's request for an *"improved project"* and requested that FEMA *"...initiate environmental and/or historic review for the improved project..."*[51]

FEMA filed a Damage Survey Report on November 24, 1998 for building repair in its Grant Acceleration Program (GAP). Total settlement funds reached $1.2 million, and on January 19, 1999, FEMA obligated $413,956, reflecting the difference between the agreed upon GAP amount and the amount already committed to the District in prior DSRs.

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[50] October 9, 1998 letter from Margaret Scholl Fairlie to Gilbert Najera
[51] October 14, 1998 letter from Gilbert Najera to David Fukutomi (FEMA)

Current Plans for the Site

The LAUSD has explored various options since it vacated the BSC. In late 1998, District officials told Committee staff that the District had not yet determined what they would do with the property.

One option that was explored in mid to late 1997 was a joint development with Home Depot and a Colorado developer.[52] On September 19, 1997, Daniel Evans, of Daniel S. Evans & Associates Real Estate Development & Consulting, thanked the LAUSD's David Koch for a tour of the location while investigating a potential deal with Home Depot. He was *"confident"* that the LAUSD's needs – *"sale/lease or a combination of cash plus lease"* could be met.

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[52] November 26, 1997 letter from Steve Evans to David Koch